

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Mason Johnson,)	C/A No. 5:12-cv-01914-JMC-KDW
)	
Plaintiff,)	
)	
vs.)	
)	REPORT AND RECOMMENDATION
Kathryn Bumgardner and Kevin Daniels in)	
their individual capacities,)	
)	
Defendants.)	
)	
)	

Plaintiff, a state prisoner proceeding pro se, seeks relief pursuant to 42 U.S.C. § 1983. This matter is before the court on Plaintiff’s Motion for Judgment by Default filed on March 27, 2013. ECF No. 75. Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(B), and Local Rule 73.02(B)(2)(d), D.S.C., this magistrate judge is authorized to review all pretrial matters in cases filed under Title 42, United States Code, Section 1983, and submit findings and recommendations to the District Court.

Plaintiff’s motion asks the court to enter judgment against Defendants contending that Defendants did not timely respond to his Motion for Summary Judgment. ECF No. 75. Plaintiff contends that Defendants’ response to his summary judgment motion was due by March 18, 2013, and Defendants “failed to respond . . . by the above date.” *Id.* Defendants oppose this motion contending their response to Plaintiff’s Motion for Summary Judgment was timely filed on March 18, 2013 and “served by U.S. Mail [on this same date] to Plaintiff’s last known address at Lieber Correctional Institution.” ECF No. 84.

The undersigned has reviewed the docket and finds that Defendants' Response to Plaintiff's summary judgment motion, which was due by March 18, 2013, was timely filed and timely served on Plaintiff. *See* ECF No. 63. Accordingly, it is recommended that Plaintiff's Motion for Judgment by Default, ECF No. 75, be denied.

IT IS SO RECOMMENDED.

A handwritten signature in black ink, reading "Kaymani D. West". The signature is written in a cursive, flowing style.

May 31, 2013
Florence, South Carolina

Kaymani D. West
United States Magistrate Judge